In the High Court of Judicature at Madras

Dated: 06.03.2007

Coram:

The Honourable Mr.Justice P.SATHASIVAM
and
The Honourable Mr.Justice N. PAUL VASANTHAKUMAR

W.P.Nos.41175 of 2006 & 3178 of 2007
& M.P.Nos.1 & 2/2006 & 1/2007

W.P.No.41175 of 2006

K.R.Annie .. Petitioner

Vs.

1.C.Ranganathan
2.R.Vijayalakshmi
3.The Commissioner,
Corporation of Chennai,
Ripon Building, Poonamallee
High Court, Chennai.

4.The City Engineer,
Construction Division,
Corporation of Chennai.

5.The Assistant Engineer,
Corporation of Chennai,
Division No.10, Zone No.2,
Kothandaraman Street,
Tondiarpet, Chennai.

6.The Member Secretary,
CMDA., Chennai Metropolitan
Development Authority, Egmore,
Chennai-600 008.

7.The Chairman,
Tamil Nadu Electricity Board,
Chennai.

8.The Managing Director,
Chennai Metro Water & Sewerage Board,
Chennai. .. Respondents

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

W.P.No.3178 of 2007

1.C.Ranganathan
2.R.Vijayalakshmi .. Petitioners

Vs.

1.The Government of Tamil Nadu,
rep. by Secretary to Government,
Housing and Urban Development
Department, Fort St. George,
Chennai-600 009.

2.The Chennai Metropolitan
Development Authority,
rep. by Member Secretary,
Chennai-600 008.

3.Corporation of Chennai,
rep. by the Commissioner,
Corporation of Chennai,
Ripon Building, Chennai-3.

4.The Junior Engineer,
Corporation of Chennai,
Division No.15, Zone No.2,
Kothandaraman Street,
Tondiarpet, Chennai-600 021.

5.K.R.Annie .. Respondents

W.P.No.41175 of 2006 filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct respondents 3 to 5 to inspect the on going construction at door No25, Soliappan Street, Old Washermenpet, Chennai-600 021 and if found to be in violation to initiate the necessary action for removal of the encroachment and further direct respondents 3 to 6 not to issue certificate of compliance of planning permit for the abovesaid premises.

W.P.No.3178 of 2007 filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct respondents 1 to 4 to take action on the representation dated 02.12.2006 and to demolish the entire un-authorised construction put up by the fifth respondent in the property bearing door No.24/1, Solaiappan Street, Old Washermenpet, Tondiarpet, Chennai-600 021 and also the encroachment made in the property bearing No.24/2, Solaiappan Street, Old Washermenpet, Tondiarpet, Chennai-600 021 and file a compliance report before this Court.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

W.P.No.41175/2006

For Petitioner : Mr.K.Sukumaran
For respondents 1 & 2 : Mr.P.Wilson
For respondents 3 to 5 : Mr.E.R.K.Moorthy
For 6th respondent : Mr.J.Ravindran
For 7th respondent : Mr.R.Subbiah

W.P.No.3178/2007

For Petitioner : Mr.P.Wilson
For 1st respondent : Mr.K.Elango, Spl.G.P.,
For 2nd respondent : Mr. J.Ravindran
For respondents 3 & 4 : Mr.E.R.K.Moorthy
For 5th respondent : Mr.K.Sukumaran

COMMON ORDER

(Order of the Court was delivered by P.SATHASIVAM,J.)

By consent of all the parties, the writ petition themselves are taken up for disposal.

2. In W.P.No.41175 of 2006, the petitioner by name K.R.Annie prayed to issue a writ of mandamus directing respondents 3 to 5 (Officers of Corporation of Chennai) to inspect the on going construction at door No25, Soliappan Street, Old Washermenpet, Chennai-600 021 and if found to be in violation to initiate the necessary action for removal of the encroachment and further direct respondents 3 to 6 not to issue certificate of compliance of planning permit for the abovesaid premises.

3. Pursuant to the direction of this Court, the Commissioner, Corporation of Chennai, the third respondent herein has filed a counter affidavit. Among the information furnished, the details stated in para 6 are relevant, which are as follows:

> 6. I submit that on 27.07.2006 separate notices were served to the respondents one and two under Section 236 of MCMC Act even before the receipt of telegrams and advocate's notice by the petitioner. Action had already been taken to impose fine for the deviated construction and to issue notice under Section 256(1) and 256(2) to the respondents one and two. A

WEB COPY
https://hcservices.ecourts.gov.in/hcservices/

separate action is being taken to issue notice under Section 222 of MCMC Act for the removal of unauthorised encroachment of balcony to a length of 8.25 m and an average width of 0.34 m made by the respondents one and two."

4. It is clear from the above information that necessary action is being taken against respondents 1 and 2. In view of the above information, we are of the view that except recording the above statement, no further adjudication is required in this writ petition and the same is closed. No costs. M.P.Nos.1 and 2 of 2006 are also closed.

5. Respondents 1 and 2 in W.P.No.41175 of 2006 are the petitioners in W.P.No.3178 of 2007. In this writ petition, they prayed for issuance of a Writ of Mandamus directing respondents 1 to 4 (CMDA, Corporation of Chennai and their Officers) to take action on the representation dated 02.12.2006 and to demolish the entire un-authorised construction put up by the fifth respondent-petitioner in W.P.No.41175/2006 in the property bearing door No.24/1, Solaiappan Street, Old Washermenpet, Tondiarpet, Chennai-600 021 and also the encroachment made in the property bearing No.24/2, Solaiappan Street, Old Washermenpet, Tondiarpet, Chennai-600 021 and file a compliance report before this Court.

6. Here again, pursuant to the direction of this Court, the Commissioner, Corporation of Chennai, the third respondent has filed a counter affidavit wherein it is stated that the fifth respondent has constructed additional ground floor, first floor and second floor without getting any sanctioned plan from the Corporation of Chennai to the total extent of 984 sq.ft. It is further stated that the building was constructed without giving any side set back all round and also with projected sun shade into petitioner's property with the provision of window opening. It is seen in paragraph 5 that the building was constructed 10 years ago and not during the month of January, 2005. It is also stated that no complaint was given by the petitioner to the fourth respondent, Junior Engineer, Corporation of Chennai. Paragraph 6 of the counter affidavit shows that only one complaint was received by the Corporation of Chennai on 04.12.2006, which is dated 02.12.2006. The fifth respondent has also filed a suit before the City Civil Court in O.S.No.8231 of 2006. Finally, in paragraph 8, the Commissioner has stated that except the ground floor area of 380 sq.ft., the entire building constructed by the fifth respondent is an unauthorised one. In the same paragraph, the Commissioner has stated that the Corporation is taking action against the fifth respondent for the same in accordance with law.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

7. The above information furnished by the Commissioner, Corporation of Chennai, is hereby recorded. He is free to proceed further in accordance with law. In view of the fact that the appropriate authority viz., the Commissioner of Corporation of Chennai, is initiating action in accordance with law and we have already recorded his action, we are of the view that no further direction is required in this writ petition and the same is closed. No costs. Consequently, M.P.No.1/2007 is also closed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

raa

To

1.The Commissioner,
Corporation of Chennai,
Ripon Building, Poonamallee
High Court, Chennai.

2.The City Engineer,
Construction Division,
Corporation of Chennai.

3.The Assistant Engineer,
Corporation of Chennai,
Division No.10, Zone No.2,
Kothandaraman Street,
Tondiarpet, Chennai.

4.The Member Secretary,
CMDA., Chennai Metropolitan
Development Authority, Egmore,
Chennai-600 008.

5.The Chairman,
Tamil Nadu Electricity Board,
Chennai.

6.The Managing Director,
Chennai Metro Water & Sewerage Board,
Chennai.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

7.The Secretary to Government,
Government of Tamil Nadu,
Housing and Urban Development
Department, Fort St. George,
Chennai-600 009.

8.The Junior Engineer,
Corporation of Chennai,
Division No.15, Zone No.2,
Kothandaraman Street,
Tondiarpet, Chennai-600 021.

2 cc To Mr.P.Wilson, Advocate, SR.14125,14126.
1 cc To Mr.J.Ravindran, Advocate, SR.14137.
1 cc To Mr.E.R.K.Moorthy, Advocate, SR.13977.
1 cc To Mr.G.S.Mohan, Advocate, SR.14047.
2 cc To Mr.K.Sukumaran, Advocate, SR.14061, 14063.

W.P.Nos.41175 of 2006
& 3178 of 2007

AVA(CO)
RVL 14.03.2007

HIGH COURT OF JUDICATURE MADRAS
सत्यमेव जयते
WEB COPY

https://hcservices.ecourts.gov.in/hcservices/